



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,598	11/12/2005	Moti Harel	026086.095-35US	6923
24239 7590 09/16/2008 MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709				
EXAMINER				
HUANG, GIGI GEORGIANA				
ART UNIT		PAPER NUMBER		
1612				
MAIL DATE		DELIVERY MODE		
09/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,598

Applicant(s)

HAREL ET AL.

Examiner

GIGI HUANG

Art Unit

1612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-64 is/are pending in the application.
4a) Of the above claim(s) 35-59 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 60-64 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CDC)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Status of Application

1. The response filed June 2, 2008 has been received, entered and carefully considered.
2. Claims 35-64 are pending in the case.
3. Claims 60-64 are present for examination.
4. The text of those sections of title 35.U.S. Code not included in this action can be found in the prior Office action.

Information Disclosure Statement

5. The information disclosure statement filed February 17, 2006 and August 7, 2006 continued to not be considered as there is no translation present for the non-patent literature by Cannizares-Villanueva et al. and the EP 0410236.

Response to Arguments

6. Claims 60-61, 63-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimoto (JP 06-070698).

Applicant's arguments filed 6/2/2008 have been fully considered but they are not persuasive. Applicant asserts that the range in Sugimoto is 0.1-10% and preferably from 2% to 10% and that the carotenoid range is from 0.003% to 0.1% of the composition. The assertion is not accurate. There is a preferred range of the phospholipid to be 2g-10g/100g feed (2%-10%) and the carotenoid to be 3mg to 100mg/100g feed, Sugimoto

states that it changes with concentration and fish stock thereby, would be adjusted/optimized as needed.

It is also not the general teaching of Sugimoto. The general teaching is the ratio is 0.1g-10g of carotenoid to 100g of phospholipid and that the feed composition contain more than 2g of phospholipid and not less than 3mg of carotenoid in the feed of 100g. The teaching is present in the specification and in the claims (paragraph 6, 10, claims 1-4) as well as a teaching that the amounts can be modified (optimization) and adjusted for the components of the feed and color desired (paragraph 12-14, Technical field, Means for Solving the Problem-1st paragraph). As a result, the claimed ranges are within the prior art and it is well within the skill of one in the art to adjust within the ranges taught in Sugimoto to arrive to the instant claims.

Accordingly, the rejection is maintained.

7. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimoto as applied to claims 60-61, 63-64 above, and in view of Place et al. (U.S. Pat. No. 6261590).

Applicant's arguments filed 6/2/2008 are directed to the Sugimoto reference and have been fully considered but they are not persuasive. The arguments in regards to Sugimoto are addressed above.

Accordingly, the rejection is maintained.

Conclusion

8. Claims 60-64 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GIGI HUANG whose telephone number is (571)272-9073. The examiner can normally be reached on Monday-Thursday 8:30AM-6:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fredrick Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GH
/Zohreh A Fay/
Primary Examiner, Art Unit 1612